

privilege of voting to provide for such an article in the Constitution. Although he approached the discussion of this subject with a great deal of diffidence, he did not deem it so clear as his friend from Kent (Mr. Chambers) seemed to think it. He would say, in the outset, that he did not belong to that school of politicians who hold that the Federal Government is a consolidated Government, or that the Constitution of the United States was formed by the people of the United States. He held the doctrine that the Constitution of the United States was formed by the States, in their sovereign capacity—by delegates from the States, acting for the States in their sovereign capacity, and that no power belonged to the Central or General Government, except what was expressly delegated to it, or was necessary to be implied, in order to carry out the express grants of power. It seemed to him, therefore, that before we proceeded to the discussion of the constitutional question, we must first ascertain what was the extent of the grant contained in the Constitution of the United States, to Congress upon this subject, and the restrictions it had imposed on the States, and what was the extent of the reserved powers which the States possessed in reference to the subject under consideration.

If he understood the argument of the gentleman from Kent, (Mr. Chambers), it was that the Constitution of the United States had given to the Senate of the United States the exclusive right to judge of the qualifications of its members, and also had undertaken to prescribe all the qualifications which a United States Senator should have; and that the constitution, having thus prescribed these qualifications, it was not competent for any State to superadd an additional qualification, which, as the gentleman had supposed, would be the result of an act of the Legislature or of this Convention requiring a Senator to come from one or the other of the districts which they might think proper to form. By looking at the first article of the third section, the great design of the constitution was manifest—that the United States Senators should not be elected by the people—as they had provided for the election by the people of the Representatives in the lower House—but that the election should devolve upon the Legislatures of the several States. The people were given the power to elect Representatives to the lower House, and the Legislatures were to elect Senators in the United States Senate. “The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six years.” In looking at these grants of power, we must look at the design, at the object in contemplation by the framers of the constitution. The object was to secure to the Legislatures of the States the choice of Senators. This was the great design, and the only prominent design; we can conceive of no other motive, no other reasons, looking to practical usefulness, than that the States having given up the power to the people to elect Representatives in the lower House, in order to represent the sovereignty of the States in the Senate, acting through their respective Legis-

latures, should have the power, and they alone, to elect Senators. This was the great, prominent design of this provision of the constitution; all other provisions on the same subject were but subsidiary to this. And if this great feature was preserved by the States, and no laws were passed by them giving the election of United States Senators to the people, this provision of the constitution and its objects would be thoroughly and fully gratified. The first object was, that the Senate should be elected by the Legislature and not by the people. If the States do nothing in conflict with this great design, they were traveling within the sphere of their reserved rights; they were not invading either, the letter or the spirit of the constitution, looking alone to the first article of section third.

In the third article the language was one of prohibition. It did not constitute a grant of power to the Government. It was not in such a form. It was in the form of a prohibition upon the States. “No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.” That is to say, no State shall elect a Senator who is not thirty years of age, been nine years a citizen of the United States, and who, when elected, does not reside in the State from which he shall be chosen. Now, he would ask his friend from Kent, (whose legal attainments were beyond all question,) if this was not the entire extent of the prohibition? If this was not the whole sum and substance of the prohibition itself? Now he (Mr. B.) wished to carry out the principle which his friend would acknowledge to be the true doctrine—“that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States are reserved to the States respectively, or to the people.” This was the language of the tenth article of the amendments to the Constitution; and by article nine, of the amendments to the Constitution, it was provided, that “the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.” He would ask his friend if here was not a specification of all the prohibitions? And if the Congress of the United States had no powers except those which were expressly granted, it follows that the States can exercise any powers which are not granted, or are not expressly prohibited. There were powers, said Mr. B. that were granted, and being granted, transferred rights to the General Government. There were also powers not granted, and if not prohibited to the States, were retained by them respectively. Cases might arise in which a State Government had not a right to exercise powers, because expressly prohibited by the Constitution of the United States, and yet, because of the want of a grant to the General Government, the Government itself could not exercise such power. What, he would ask, became of that power which is reserved to the States of the Union of establishing municipal regulations in regard to